

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

WEDNESDAY, THE 17TH JANUARY 2007 / 27TH PAUSHA 1928

CRL.A.No. 968 of 1998()

**AGAINST THE ORDER DT.13.10.98 IN CC.1101/1996 of JUDL.MAGISTRATE OF FIRST
CLASS COURT-I, KANNUR**

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APPELLANT: COMPLAINANT

**POYYAYIL PREJITH,
S/O.KARUNAN, AGED 25 YEARS, DRIVER,
POYYAYIL HOUSE, CHEMBILODE,
AMSOM, DESOM, KANNUR.**

BY ADV. SRI.P.M.PAREETH

RESPONDENT: ACCUSED

**P.G.ALPHONSA, S/O.GEORGE,
AGED 42 YEARS, THACHAN HOUSE,
MADAYI AMSOM, PUTHIYANGADI DESOM,
KANNUR.**

BY PUBLIC PROSECUTOR SRI. K.C.SANTHOSHKUMAR

**THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD
ON 17/01/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

J.B. KOSHY, J.

Crl. Appeal No. 968 of 1998

Dated this the 17th day of January, 2007

Judgment

This appeal is filed against an order of acquittal. The complaint was filed by the appellant under section 138 of the Negotiable Instruments Act, but, after summons was ordered, complainant was absent on all hearing dates. He was continuously absent and finally when he was absent on 13.10.1998, accused was acquitted under section 256 of the Code of Criminal Procedure. Even though notice was ordered as early as on 27.11.1998, no effective steps were taken to serve notice on the accused. On 4.10.2006 fresh notice was ordered. So far, no sufficient process was filed. Apart from the above, acquittal of the accused for continuous absence of the complainant on the posting dates cannot be said to be illegal in view of the provisions of 256 Cr. P.C. Hence, this appeal is dismissed.

**J.B.KOSHY
JUDGE**

vaa

J.B. KOSHY, J.

CRL.APPEAL No.968/98

Judgment

Dated:17th January, 2007